

## Chapter 51. Acupuncturists and Acupuncturists' Assistants

### ' 5101. Scope of Chapter

The rules of this chapter govern the practice of traditional Chinese acupuncture by acupuncturists and acupuncturists' assistants in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993).

### ' 5103. Definitions

A. As used in this chapter, the following terms shall have the meanings specified:

*Acupuncture* Treatment by means of mechanical, thermal, or electrical stimulation effected by the insertion of needles at a point or combination of points on the surface of the body predetermined on the basis of the theory of the physiological interrelationship of body organs with an associated point or combination of points, or the application of heat or electrical stimulation to such point or points, for the purpose of inducing anesthesia, relieving pain, or healing diseases, disorders, and dysfunctions of the body, or achieving a therapeutic or prophylactic effect with respect thereto.

*Acupuncture Practice Act* or *Act* CR.S. 37:1356-1360, as hereafter amended or supplemented.

*Board* The Louisiana State Board of Medical Examiners.

*Independent Medical Judgment* The implementation or effectuation of any medical determination where such medical determination is made without the informed concurrence of a licensed physician responsible to the patient for such determination.

*Licensed Physician* A person possessing a current license to practice medicine in the state of Louisiana.

*Supervising Physician* A licensed physician approved by the board under Chapter 21 of these rules to supervise a certified acupuncturist's assistant.

B. Masculine terms wheresoever used in this chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993).

### ' 5105. Necessity of Certification

A. No person may act as or undertake to perform or practice acupuncture as an acupuncturist's assistant unless he holds current certification by the board as an acupuncturist's assistant.

B. Any person, other than a licensed physician, who acts as or undertakes to perform or practice acupuncture without a current acupuncturist's assistant's certificate issued under this chapter shall be deemed to be engaging in the unlawful practice of medicine; provided, however, that none of the provisions of this chapter shall apply to any person employed by, and acting under the supervision and direction of, any commissioned physician of any the United States Armed Services or Public Health Service, practicing in the discharge of his official duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993).

### ' 5107. Authority and Limitations of Acupuncturist's Assistant

A. An acupuncturist's assistant shall not:

1. exercise independent medical judgment, as defined by ' 5103.A, except in life-threatening emergencies;
2. issue prescriptions for or dispense any medication and/or complete and issue prescription blanks previously signed by any physician;
3. order for administration or administer any medication to any patient except pursuant to the specific order or direction of his supervising physician;
4. perform or provide any acupuncture procedure, service, or function other than at his place of employment as specified in his certificate unless such procedures, services, or functions are performed in the physical presence of the supervising physician;
5. perform or provide any acupuncture procedure, service, or function when the supervising physician is absent or off duty, unless the personal presence of the supervising physician may be secured within 30 minutes; or
6. identify himself, or permit any other person to identify him, as "Doctor" or render any service to a patient unless the acupuncturist's assistant has clearly identified himself as an acupuncturists' assistant by any method reasonably calculated to advise the patient that the acupuncturist's assistant is not a licensed physician.

B. An acupuncturist's assistant holding Class B certification shall not perform or provide, or attempt to perform or provide, any acupuncture procedure, service, or function other than in the course of *bona fide* scientific research conducted at the direction and under the auspices of his employing hospital, medical school, or clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993).

' 5109. Authority and Limitations of Supervising Physician

A. The supervising physician is responsible for the responsible supervision, control, and direction of the acupuncturist's assistant and retains responsibility to the patient for the competence and performance of the acupuncturist's assistant.

B. A supervising physician shall not concurrently supervise, or be approved to supervise, more than two acupuncturist's assistants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993).

' 5111. Mutual Obligations and Responsibilities

A. The acupuncturist's assistant and supervising physician shall:

1. immediately notify the board, in writing, of:
  - a. the termination of the acupuncturist's employment;
  - b. the retirement or withdrawal from active practice by the supervising physician; and
  - c. any other change in the employment, functions, activities, or services of the acupuncturist's assistant or the manner or location of their performance;
2. comply with reasonable requests by the board for personal appearances and/or information relative to the functions, activities, and performance of the acupuncturist's assistant and supervising physician;
3. insure that each individual to whom the acupuncturist's assistant provides patient services is expressly advised and understands that the acupuncturist's assistant is not a licensed physician;
4. insure that, with respect to each patient, all activities, functions, services, and treatment measures of the acupuncturist's assistant are immediately and properly documented in written form by the acupuncturist's assistant. Each and every such written entry, such as on histories, physical examination findings, charts, records, and other memoranda, shall be reviewed and countersigned by the supervising physician within 24 hours of the making of such entry.

B. The acupuncturist's assistant and the supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities, and provisions set forth in the rules of this chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993).

' 5113. Causes for Action; Suspension, Revocation, Imposition of Restrictions; Fines; Reinstatement

A. The board may suspend, revoke, or impose probationary conditions and restrictions on the certification of any acupuncturist or acupuncturist's assistant upon a finding, following hearing, that the acupuncturist or acupuncturist's assistant is culpable of:

1. conviction of a crime or entry of a plea of guilty or *nolo contendere* to a criminal charge constituting a felony under the laws of the Louisiana, of the United States, or of the state in which such conviction or plea was entered;
2. conviction of a crime or entry of a plea of guilty or *nolo contendere* to any criminal charge arising out of or in connection with the practice of acupuncture;
3. perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a certificate to practice acupuncture;
4. providing false testimony before the board or providing false sworn information to the board;
5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;
6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;
7. making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient,

insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

8. cognitive or clinical incompetency;
9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of acupuncture practice in this state;
10. knowingly performing any act which in any way assists an uncertified person to practice acupuncture, or having professional connection with or lending one's name to an illegal practitioner;
11. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients to the acupuncturist or acupuncturist's assistant;
12. interdiction by due process of law;
13. inability to practice acupuncture with reasonable competence, skill, or safety to patients because of mental or physical illness, condition, or deficiency, including but not limited to deterioration through the aging process and excessive use or abuse of drugs, including alcohol;
14. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the certificate holder's physical and/or mental fitness and ability to practice acupuncture with reasonable skill or safety to patients;
15. practicing or otherwise engaging in any conduct or functions beyond the scope of acupuncture as defined by the Acupuncture Practice Act or these rules;
16. the refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice acupuncture in that state, or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate;
17. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:1356-1360.

B. The board may, as a probationary condition, or as a condition of the reinstatement of any certificate suspended or revoked hereunder, require the acupuncturist or acupuncturist's assistant to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees, and to pay a fine not to exceed the sum of \$5,000.

C. Any certificate suspended, revoked, or otherwise restricted by the board may be reinstated by the board, provided, however, that no application may be made to the board for reinstatement of a revoked certificate until not less than one year has elapsed from the date of the revocation. The board shall have discretion to accept or reject any application for reinstatement.

Appendix

Acupuncture Training Schools  
Approved by the  
Louisiana State Board of Medical Examiners  
as of December 1, 1992

Academy of Chinese Culture and Health Sciences  
Oakland, California

American College of Traditional Chinese Medicine  
San Francisco, California

Bastyr College of Natural Health Sciences  
Seattle, Washington

Emperor's College of Oriental Medicine  
Santa Monica, California

Five Branches Institute, College of Traditional Chinese  
Medicine  
Santa Cruz, California

International Institute of Chinese Medicine  
Santa Fe, New Mexico

Midwest Center for the Study of Oriental Medicine  
Racine, Wisconsin

New England School of Acupuncture  
Watertown, Massachusetts

Northwest Institute of Acupuncture and Oriental Medicine  
Seattle, Washington

Oregon College of Oriental Medicine  
Portland, Oregon

Oriental Medical Institute of Hawaii  
Honolulu, Hawaii

Pacific College of Oriental Medicine  
San Diego, California

Samra University of Oriental Medicine  
Los Angeles, California

Tai Hsuan Foundation  
Honolulu, Hawaii

Traditional Acupuncture Institute  
Columbia, Maryland

Tri-State Institute of Traditional Chinese Acupuncture  
Stamford, Connecticut

Yo San University of Traditional Chinese Medicine  
Santa Monica, California

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